

Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

A282.12
F76

UNITED STATES
DEPARTMENT OF AGRICULTURE
LIBRARY



BOOK NUMBER
914950

A282.12
F76

WHAT IS THE NEW MULTIPLE-USE MINING LAW?



**U. S. Department of Agriculture
Forest Service**

1956

It is a law¹ designed to bring the greatest good from our natural resources to the greatest number of people in the long run. It is concerned primarily with above-ground resources and does not deprive the legitimate miner of his mining rights, including the surface rights needed for mining. The Department of Agriculture has always favored development of the mineral resources of the National Forests and it will continue to co-operate fully with legitimate miners.

The new mining law's principal provisions were the outgrowth of cooperative work between members of Congress, the American Forestry Association, the American Mining Congress, and the Departments of Agriculture and Interior. After hearings before the Interior and Insular Affairs Committees of the Senate and the House of Representatives, at which numerous groups and individuals testified, Congress passed H.R. 5891. It was approved by President Eisenhower on July 23, 1955, and became Public Law 167. The President stated in a White House release that, in his opinion, it was one of the most important conservation measures affecting public lands that had been enacted in many years.

Why Was the New Law Necessary?

There are several hundred thousand mining claims covering millions of acres of public lands, and several thousand additional claims are filed each month. On the national forests alone, as of July 1, 1955, there were some 200,000 mining claims covering about 4½ million acres. This land supports some 12 billion board-feet of timber worth about \$130,000,000.

¹ Public Law 167, 84th Cong., 1st sess., Act of July 23, 1955 (69 Stat. 367). This law applies to public lands administered by the Department of Agriculture and the Bureau of Land Management in the Department of the Interior; it does not apply to lands in any national park or monument, or to any Indian lands.

Some persons located mining claims for purposes other than mining, or because they wished to capitalize on the nuisance value of a mining claim in a timber-sale area or in an area important to the public for recreation use. Claims for common varieties of mineral materials, such as sand, stone, gravel, and pumice, were frequently located for this purpose because these materials were so easy to find.

In addition to these problems, responsible Government agencies charged with administration of public lands could not properly manage and dispose of the surface resources on a valid mining claim under the provisions of the old mining laws. This lack of authority seriously interfered with the efficient management of public lands.

For these reasons, an amended mining law was needed to enable Government agencies to carry on their work in the interest of all the people while at the same time fully protecting the rights of legitimate miners to prospect for and develop mineral resources.

How Does the New Law Work To Protect Both the Public Interest and the Miner Who Files Claims After July 23, 1955?

A miner can still locate claims and develop the mineral resources. He can patent a valid claim just as before, and when he obtains patent, his ownership of the mineral and surface resources is not diminished under the amended law. However, claims cannot be located on the basis of discovery of common varieties of sand, stone, gravel, pumice, pumicite, and cinders. This does not preclude valid claims based on discoveries of locatable minerals, such as gold, occurring in or in association with deposits of common varieties of the materials named above.

The amended law says that on claims filed

after July 23, 1955, the miner may use his claim for prospecting, mining, or processing operations and the uses reasonably incident thereto, but not for any other purpose prior to patent. This means, of course, that he has the right to use timber for mining purposes and that he can also remove timber to provide clearance. However, until he obtains his patent, the United States can manage and dispose of the vegetative surface resources and manage other surface resources on the claim, provided that such disposal or management does not endanger or materially interfere with the miner's prospecting, mining, or processing operations. Obviously, this protects the public interest as well as the miner.

Further, in the public interest, the amended law says that any cutting the miner does on his claim other than to provide clearance must be in accord with sound principles of forest management. In the miner's interest it says that if the Government in managing the surface resource disposes of the timber on a claim after location of the claim and the miner needs more timber for his mining operations, he is entitled to it free of charge. The replacement timber is to be substantially equivalent in kind and quality to the timber estimated by the disposing Government agency to have been removed from the claim, and it is to come from the nearest timber that is ready for harvesting.

What About the Miner Whose Claim Was Located Before July 23, 1955?

The new law does not affect him until notice of a procedure for determining surface rights on mining claims has been published for the area in which the claim is located. This procedure, designed to be fair to all, is best described in the answers to questions that follow.

Who Starts the Procedure for the Determination of Surface Rights?

It is started by the Federal agency responsible for administering the public lands on which the mining claims are located. For example, the Forest Service will start the procedure on all areas under its jurisdiction where the public benefits justify such action. Its first step will be to examine such areas to determine if anyone is in actual possession or engaged in working claims. It will also examine the tract indexes in the local county office for any indication of an interest in these claims.

The Forest Service will then request the Bureau of Land Management to publish a notice stating that a determination of surface rights on mining claims will be made. This notice, which will describe the area by legal subdivisions, is to be published in a local newspaper for 9 consecutive weeks. Persons in actual possession or working a claim, or whose claims are listed on the tract indexes of the local county as affecting any lands described in the published notice, and whose names and addresses have been ascertained, or who have filed in the local county recording office a request for copies of notices will also receive notice by personal service or by registered mail.

What Does a Claimant Do After Notice Is Given That a Determination of Surface Rights Is Being Made?

The public notice gives each claimant 150 days after the date of first publication to do one of three things:

1. He may ignore the notice. By so doing, he will not lose any of his mining rights including the surface rights necessary for mining or his right to patent the claim under the mining laws. The only change in the status

of his claim is that the United States would obtain, without further procedure, the same right to manage and dispose of the vegetative surface resources and to manage other surface resources on his claim as it has on claims located after July 23, 1955.

2. He may execute a waiver whereby he relinquishes all surface rights on his claim which are contrary to the surface rights that the Government would have under the act for claims located subsequent to July 23, 1955. Such waivers may, and in most cases probably will, be executed prior to publication of a notice of determination of surface rights.

3. He may file a verified statement that sets forth--

- (a) The date he located his claim.
- (b) The book and page where notice or certificate of location is recorded.
- (c) The section or sections of the public land surveys which embrace such mining claims; or if such lands are unsurveyed, either (1) the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or (2) a tie by courses and distances to an approved United States mineral monument.
- (d) Whether he is a locator or purchaser under such location.
- (e) His name and address and the names and addresses so far as he knows of any other person or persons claiming any interest or interest in or under such unpatented mining claim.

What Happens if a Claimant Files a Verified Statement?

By filing a verified statement, the claimant asserts a validity for his claim pre-dating passage of the law. The claim will be examined by a qualified Forest Service mineral expert. If the Forest Service is convinced after mineral examination that there is no

question as to the validity and effectiveness of asserted surface rights in a claim, the Forest Service may enter into a stipulation with the claimant and his asserted rights will be unaffected by the published notice of determination of surface rights.

If the mineral examination discloses that there is some doubt as to the validity and effectiveness of the asserted surface rights, the Forest Service will present its findings at a hearing. Notice of the hearing, the conduct thereof, and appeals, if any, will follow the established rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States. On the basis of the testimony presented by the claimant and by the Forest Service at this hearing, the Bureau of Land Management will make the decision.

If the Bureau of Land Management decides in favor of the claimant, he retains the same surface rights he had originally under the mining laws. If the Bureau decides against the claimant, then the United States obtains the same right to manage and dispose of the vegetative surface resources and to manage other surface resources on the claim that it has on claims located after July 23, 1955. The claimant retains all of the mining rights he had previously and the right to patent the claim under the mining laws.

What Will the Government Agencies Do About the Mineral Materials Now Under Their Jurisdiction?

The new mining law authorizes them to dispose of mineral materials, including but not limited to common varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay, when such disposal is not detrimental to the public interest. This right of disposition does not include any right to dispose of these last-named minerals within any valid mining claim

whether located before or after July 23, 1955. Neither does the right of disposition extend to any minerals on lands where such minerals are subject to acquisition under any other law.

Quantities of these materials appraised at over \$1,000 must be advertised and sold to the highest bidder; if their appraised value is less, they may be sold without advertising. The law also provides that these materials may be made available to Federal, State, and other public agencies or nonprofit groups without charge.

Money received from the sale of these mineral materials will be handled in the same manner as money received from the sale of other natural resources. For a national forest, 25 percent of such receipts is turned over to the State for distribution to the counties in which that forest is located. This money is used for public schools and public roads.

Who Benefits From the New Multiple-Use Mining Law?

Everybody benefits. Mineral materials are made available to all who need them, the legitimate miner retains all of his mining rights, and the responsible Government agencies are authorized to manage the surface resources in the public interest.



